



8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 *Hector Humberto Payan*
14 Defendant.
15

Case No.: *EO 11-0219m*

ORDER OF PRETRIAL
DETENTION
(18 U.S.C. §§ 3142(e), (i))

16 I.

17 A. ☒ On motion of the Government in a case that involves:

- 18 1. ☐ a crime of violence, a violation of 18 U.S.C. § 1591, or an
19 offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a
20 maximum term of imprisonment of ten years or more is
21 prescribed.
22 2. ☐ an offense for which the maximum sentence is life
23 imprisonment or death.
24 3. ☒ an offense for which a maximum term of imprisonment of ten
25 years or more is prescribed in the Controlled Substances Act,
26 the Controlled Substances Import and Export Act, or the
27 Maritime Drug Law Enforcement Act.
28

1 4. () any felony if defendant has been convicted of two or more
2 offenses described above, two or more state or local offenses
3 that would have been offenses described above if a
4 circumstance giving rise to federal jurisdiction had existed, or a
5 combination of such offenses..

6 5. () any felony that is not otherwise a crime of violence that
7 involves a minor victim, or that involves possession or use of a
8 firearm or destructive device or any other dangerous weapon,
9 or that involves a failure to register under 18 U.S.C § 2250.

10 B. On motion (☒) by the Government / () of the Court *sua sponte* in a case
11 that involves:

12 1. (☒) a serious risk defendant will flee.

13 2. () a serious risk defendant will:

14 a. () obstruct or attempt to obstruct justice.

15 b. () threaten, injure or intimidate a prospective witness or
16 juror, or attempt to do so.

17 C. The Government (☒) is / () is not entitled to a rebuttable presumption that
18 no condition or combination of conditions will reasonably assure
19 defendant's appearance as required and the safety of any person or the
20 community.

21
22 II.

23 The Court finds that no condition or combination of conditions will
24 reasonably assure:

25 A. (☒) the appearance of defendant as required.

26 B. (☒) the safety of any person or the community.

1 III.

2 The Court has considered:

- 3 A. the nature and circumstances of the offense(s) charged;
4 B. the weight of the evidence against defendant;
5 C. the history and characteristics of defendant; and
6 D. the nature and seriousness of the danger to any person or the community
7 that would be posed by defendant's release.

8 IV.

9 The Court has considered all the evidence proffered and presented at the
10 hearing, the arguments and/or statements of counsel, and the Pretrial Services
11 Report and recommendation.

12 V.

13 The Court concludes:

- 14 A. ☒ Defendant poses a serious flight risk based on:
15 ☒ information in Pretrial Services Report and Recommendation
16 ☒ other: complaint
17 _____
18 _____

- 19 B. ☒ Defendant poses a risk to the safety of other persons and the
20 community based on:
21 ☒ information in Pretrial Services Report and Recommendation
22 ☒ other: complaint
23 _____
24 _____

- 25 C. ☐ A serious risk exists that defendant will:
26 1. ☐ obstruct or attempt to obstruct justice,
27 2. ☐ threaten, injure, or intimidate a witness/juror, or attempt to do so,
28

1 based on: _____
2 _____
3 _____
4 _____

5 D. (X) Defendant has not rebutted by sufficient evidence to the contrary the
6 presumption provided in 18 U.S.C. § 3142(e) that no condition or
7 combination of conditions will reasonably assure the appearance of
8 defendant as required.

9 E. (X) Defendant has not rebutted by sufficient evidence to the contrary the
10 presumption provided in 18 U.S.C. § 3142(e) that no condition or
11 combination of conditions will reasonably assure the safety of any
12 other person and the community.

13 VI.

14 A. IT IS THEREFORE ORDERED that defendant be detained prior to trial.

15 B. IT IS FURTHER ORDERED that defendant be committed to the custody of
16 the Attorney General for confinement in a corrections facility separate, to
17 the extent practicable, from persons awaiting or serving sentences or being
18 held in custody pending appeal.

19 C. IT IS FURTHER ORDERED that defendant be afforded reasonable
20 opportunity for private consultation with counsel.

21 D. IT IS FURTHER ORDERED that, on order of a Court of the United States
22 or on request of an attorney for the Government, the person in charge of the
23 corrections facility in which defendant is confined deliver defendant to a
24 United States Marshal for the purpose of an appearance in connection with a
25 court proceeding.

26 DATED: 6-30-11

27 
28 HONORABLE SHERI PYM
United States Magistrate Judge